

## **SRWM Brownfields FAQ**

(as of 13 May 2004)

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### ***What is a brownfield?***

A brownfield is defined under NJ state law (N.J.S.A. 58:10B-23.d) as "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant."

While this is the definition recognized in state legislation, there are many variations on this definition. Generally, brownfields are properties that are abandoned or underutilized because of either real or perceived contamination.

### ***How many contaminated sites are there in NJ? Are they all brownfields?***

At any one time, the NJDEP oversees some 23,000 contaminated sites. An estimated 10,000 of these are potential brownfield sites. Many more potential brownfields may exist in the State that are not yet before the Department for review. For more information about known contaminated sites, consult the New Jersey Known Contaminated Sites list <<http://www.nj.gov/dep/srp/kcs-nj/>>.

### ***How can I find out if there is a contaminated site in my town?***

The New Jersey Known Contaminated Sites <<http://www.nj.gov/dep/srp/kcs-nj/>> lists sites by county and by municipality.

### ***Where can I access information about a specific brownfield site?***

All of the sites under NJDEP oversight, including brownfields, can be accessed through the Known Contaminated Site List <<http://www.nj.gov/dep/srp/kcs-nj/>> or the NJDEP I-Map GIS mapping system <<http://www.nj.gov/dep/gis/imapnj/imapnj.htm>>. Anyone interested in looking at case files can file an Open Public Records Act (OPRA) <<http://www.nj.gov/dep/opra/>> request.

### ***Where can I find a suitable brownfield site for my business?***

There are a number of approaches to finding a suitable brownfield for reuse as a business. Under the new NJDEP Brownfield Development Area (BDA) program, designated communities have identified clusters of brownfield sites for coordinated remediation and reuse according to a community-based plan. This provides opportunities for developers as well. There are numerous potential sites for redevelopment in the BDA's in Camden, Trenton, Elizabeth, Irvington, Newark, Hillside and Palmyra.

The State also has a "Site Mart," <<http://njbrownfieldsitemart.state.nj.us/>> which is a searchable on-line multiple-listing service managed by the New Jersey Redevelopment Authority. Users need to register at the website to view the listed properties. The registration is free and available to anyone. For more information please contact the New Jersey Redevelopment Authority (NJRA) at 609-292-2659.

The NJDEP list of all contaminated sites does not currently distinguish between sites that are available for development and those that are simply in the remediation process. If you are interested in knowing whether a particular site is under Department oversight, you can check it out by searching the Known Contaminated Site List <<http://www.nj.gov/dep/srp/kcs-nj/>>.

Often the best source of information regarding redevelopment of a specific site is found locally. If you have a specific municipality or county in mind, speak with the local economic development directors who generally know where the sites are in their communities. Also, many counties have developed inventories of brownfield sites.

### ***Where can I find New Jersey's brownfield law?***

The Brownfield and Contaminated Site Remediation Act (BCSRA) <[http://www.njleg.state.nj.us/9697/Bills/AL97/278\\_.HTM](http://www.njleg.state.nj.us/9697/Bills/AL97/278_.HTM)> was passed in 1998 and Section 35 was amended <[http://www.njleg.state.nj.us/2002/Bills/PL02/87\\_.HTM](http://www.njleg.state.nj.us/2002/Bills/PL02/87_.HTM)> in October, 2002.

### ***Can a brownfield site be redeveloped as open space or a park?***

Yes. Commissioner Campbell launched the "Brownfields to Greenfields" initiative in November 2002. That initiative encourages the restoration of brownfield sites into recreational or natural areas. If you want to turn a Brownfield into a Greenfield, experienced NJDEP case managers can oversee remediation and revitalization efforts to help you comply with the Technical Requirements for Site Remediation <[http://www.njleg.state.nj.us/9697/Bills/AL97/278\\_.HTM](http://www.njleg.state.nj.us/9697/Bills/AL97/278_.HTM)>. Assurance that the public is protected from any exposure is a key concern addressed by long term monitoring and maintenance of engineering and institutional controls when required. Funding for remediation and acquisition may be available from other parts of NJDEP, such as the Green Acres Program <<http://www.nj.gov/dep/greenacres/>>.

### ***Where can I find funding for brownfield remediation and redevelopment?***

The NJDEP works with the NJ Economic Development Authority (EDA) in the implementation of the Hazardous Discharge Site Remediation Fund (HDSRF) <<http://www.nj.gov/dep/srp/finance/hdsrf/>>. The legislature created the HDSRF in 1993 to provide loans and grants to municipal governmental entities, the New Jersey Redevelopment Authority (NJRA), and private parties. HDSRF funding is devoted to remediating discharges of hazardous substances. Over the past ten years the HDSRF provided over \$100,000,000 for remediation of over 1000 sites.

- <http://www.nj.gov/dep/srp/finance/hdsrf/>
- <http://www.njeda.com/brownfields.asp>

Under the Brownfield and Contaminated Site Remediation Act (BCSRA) <[http://www.njleg.state.nj.us/9697/Bills/AL97/278\\_.HTM](http://www.njleg.state.nj.us/9697/Bills/AL97/278_.HTM)> a developer that enters into a redevelopment agreement may potentially recoup up to 75% of his or her cleanup costs. The New Jersey Commerce and Economic Growth Commission <[http://www.nj.gov/commerce/uez\\_brownfields.htm](http://www.nj.gov/commerce/uez_brownfields.htm)> and the Department of Treasury, in consultation with NJDEP, negotiate and approve redevelopment agreements.

For general information on state programs dedicated to brownfield reuse including remediation and financing information, contact the New Jersey Brownfield Redevelopment Task Force and request the new brochure "The New Jersey Brownfields

Redevelopment Resource Kit."

<<http://www.nj.gov/dca/osg/commissions/brownfields/index.shtml>>

### ***What is a Cleanup Star?***

Under the Cleanup Star Program <<http://www.nj.gov/dep/srp/cleanupstar/>>, NJDEP will pre-qualify environmental consultants meeting rigorous education, experience and professional requirements as "Cleanup Stars." These "Cleanup Stars" will be permitted to investigate and remediate certain low-priority sites and areas of concern with limited NJDEP oversight. NJDEP will strictly audit Cleanup Stars' work to ensure regulatory compliance and protection of public health and the environment.

### ***How can I become certified as a Cleanup Star consultant?***

See the Cleanup Star FAQ <[http://www.nj.gov/dep/srp/cleanupstar/cstar\\_faq.htm](http://www.nj.gov/dep/srp/cleanupstar/cstar_faq.htm)> for the current information on becoming a Cleanup Star consultant.

### ***Where can I find the most up-to-date rules and regulations for voluntary cleanups?***

- Overview of the voluntary cleanup process <<http://www.nj.gov/dep/srp/volclean/>>.

The current technical regulations <<http://www.nj.gov/dep/srp/regs/techrule/>> and oversight rules <<http://www.nj.gov/dep/srp/regs/oversight/>> are available online, and they apply to all cleanups.

Note: The online SRP Regulations are "courtesy copies." To obtain official copies of these regulations consult the NJDEP Office of Legal Affairs' How to Get Copies of Departmental Rules page <[http://www.nj.gov/dep/legal/get\\_rule.htm](http://www.nj.gov/dep/legal/get_rule.htm)>.

### ***Does New Jersey offer liability protections for someone willing to acquire contaminated property?***

Yes. There are a variety of liability protections offered by New Jersey law and the NJDEP initiative of Prospective Purchaser Agreements, however, in New Jersey, the Courts, not NJDEP, decide liability issues. NJDEP <<mailto:Sue.Boyle@dep.state.nj.us>> or the Division of Law <<mailto:brossphy@law.dol.lps.state.nj.us>> can assist your understanding of the protections available and what you have to do to qualify, but the Department cannot tell you whether or not you are able to escape a legal finding of liability.

## ***What is a Covenant Not to Sue?***

A Covenant Not To Sue (CNS) (NJSA 58:10B-13.1) accompanies all letters of No Further Action (NFA). The CNS is a finality document; it is NJDEP's own commitment that it will not institute civil actions to require more clean up or funds for cleanups against those who conducted the remediation that resulted in the NFA or against and subsequent owners, lessees, or operators who come onto the site after the NFA/CNS is issued.

**Note:** There are no CNS protections for Spill Act dischargers or those "in any way responsible" under the Spill Act for the existence of hazardous substances, nor does it address liability protections from 3rd party lawsuits. It can be revoked if the NFA conditions are not complied with, including monitoring and maintaining institutional or engineering controls.

In addition to the protections provided by law, NJDEP also enters into Prospective Purchaser Agreements (PPAs) in certain cases when requested. PPAs are often obtained by parties taking title to contaminated property before the completion of the cleanup and the issuance of the NFA/CNS. The Department will consider a PPA as long as some party (the seller, the buyer or some other party) is conducting a cleanup under the oversight of NJDEP, the purchaser can truthfully sign the innocent purchaser certification that is part of the PPA, the NJDEP and Division of Law (DOL) document preparation costs are paid and an agreed to environmental settlement premium is paid. The PPA would then offer the purchaser liability protection from the NJDEP (not other 3rd parties) between the time that the contaminated land is purchased and the time that the NFA/CNS is issued. Interested parties may contact NJDEP <<mailto:Sue.Boyle@dep.state.nj.us>> or DOL <<mailto:brossphy@law.dol.lps.state.nj.us>> for further information.

### ***What can we do to get multiple sites in our neighborhood remediated?***

The NJDEP launched the new Brownfields Development Area (BDA) Initiative <<http://www.nj.gov/dep/srp/brownfields/bda/>> specifically to work with interested communities to address the challenges presented by multiple brownfield sites. This initiative focuses on the role of community stakeholder input in both planning and implementation of remediation and reuse, bringing assistance from NJDEP and other key agencies. To date NJDEP has designated neighborhoods in Camden, Trenton, Elizabeth, Irvington, Newark, Hillside and Palmyra. Community organizations are urged to discuss their goals with their municipal with multiple sites in their neighborhoods and to apply <[http://www.nj.gov/dep/srp/brownfields/bda/bda\\_application\\_guide.htm](http://www.nj.gov/dep/srp/brownfields/bda/bda_application_guide.htm)> for this competitive designation.

### ***How can I receive assistance with the NJDEP permitting process?***

- NJDEP Permit Coordination Program's One Stop Permit Process Information  
<<http://www.nj.gov/dep/opppc/onestop.html>>
- NJDEP Permit Identification Form (PIF)  
<<http://www.nj.gov/dep/opppc/rules/pif.pdf>>  
(DEP Form VPM-012; PDF format; 1.78 Mb)

### ***How do I coordinate remediation with land use requirements?***

- NJDEP Land Use Regulation Program's Guidance Document for Site Remediation  
<[http://www.nj.gov/dep/srp/brownfields/faq/lurp\\_srwm\\_guide.htm](http://www.nj.gov/dep/srp/brownfields/faq/lurp_srwm_guide.htm)>

**[ End of the Brownfields FAQ ]**